

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
NORTHEASTERN DIVISION**

RICKY UPCHURCH as Executor of
The Estate of JUANITA UPCHURCH,
For the use and benefit of the next of kin of
CLAYTON UPCHURCH,
Decedent,

vs.

C.A. No. 2:19-CV-00149-PLR

NATIONAL RIFLE ASSOCIATION (NRA), and
LINA, INC.
Defendant.

AMENDED COMPLAINT

1. The decedent was a citizen and resident of Sullivan County, Tennessee, and the defendant, NATIONAL RIFLE ASSOCIATION (NRA), 11250 Waples Mill Road, Fairfax, Virginia 22030, is a foreign corporation doing business in the State of Tennessee. The decedent was issued a policy of accidental death insurance, by the defendant corporation. Said policy was to cover the decedent and pay a sum certain to decedent's beneficiary in the event of an accident leading to the death. Decedent faithfully paid his premium pursuant to the terms and a policy of insurance was issued to the decedent; a copy of said deck sheet is attached.

The decedent was a citizen and resident of Sullivan County, Tennessee, and the defendant, LINA, INC., Claims Dept. P.O. Box 9842, Phoenix, Arizona 85068, is a foreign corporation doing business in the State of Tennessee. The decedent was issued a policy of accidental death insurance, by the defendant corporation. Said policy was to cover the decedent and pay a sum certain to decedent's beneficiary in the event of an accident leading to the death. Decedent faithfully paid his premium pursuant to the terms and a policy of insurance was issued to the decedent; a copy of said deck sheet

is attached.

1. Pursuant to the policy, the decedent was current and faithful to the payments of his premiums as of August 22, 2014.

3. In August of 2014, the decedent drove his motorcycle across the Country to enter into a pool tournament in Las Vegas, Nevada.

4. While enjoying his stay in Nevada, the decedent was involved in a traffic accident on U.S. 93.

5. According to the accident report attached as "Exhibit A" decedent's motorcycle left the roadway and struck a curbed sidewalk coming to rest 21 feet north of the curb line on Canyon Road on the East curb line of U.S. 93.

6. Witnesses at the scene state that a vehicle traveling north, in the same direction as the decedent on U.S. 93, illegally and without warning came into the lane of travel of the decedent causing him to swerve and lose control of his motorcycle, and thereby causing the accident.

7. Upon the arrival of emergency responders, decedent was immediately taken to the hospital.

8. After multiple visits to local hospitals in Nevada the decedent succumbed to his injuries and passed away on August 22, 2014 at Desert Springs Hospital. A copy of the death certificate is attached here as "Exhibit B".

9. Wherein according to part two number 28a of said death certificate, decedent's death was listed as an accident.

10. Additionally, the Clark County office of coroner/medical examiner issued a letter on October 7, 2014 to the decedent's daughter, Angela Smith, attached as "Exhibit C". This report unequivocally states that the cause of death was an accident due to motor vehicle collision.

11. The relatives of the decedent, pursuant to the terms of the policy, gave proper notice as required by said policy of insurance and complied in all particulars with the terms and condition of the policy.

12. Despite Mr. Upchurch's family's diligent efforts to investigate and collect on this policy the Defendant has yet honor their obligation and pay pursuant to the policies terms, effectively denying this claim.

13. The plaintiff alleges that the defendant has intentionally breached the contract, has not dealt in good faith with the plaintiff, that the defendant's accepted money for premiums and has woefully refused to pay pursuant to the policy terms even though said policy has been submitted to the insurance company for many months.

14. The plaintiff further alleges that the defendant is guilty of deceptive trade practices all of which are in violation of Consumer Protection Act of the State of Tennessee. Therefore, violation of said act entitles the plaintiff to treble damages.

WHEREFORE, PLAINTIFF REQUESTS:

1. Wherein the process issue to that the plaintiff's be awarded to amounts due under the policy insurance
2. The plaintiff's be awarded damages pursuant to TCA §56-7-105. In addition, the defendant is liable upon issuers and bonding upon bad faith, failure to pay and failure to pay promptly, as required by insurance and bonding company's.
3. Plaintiff be awarded pre judgement interest.
4. Plaintiff be awarded treble damages pursuant to Tennessee's Consumer Protection Act and attorney's fees.
5. Any and all further relief equity so requires.

RICKY UPCHURCH as Executor of the Estate of
Juanita Upchurch for the use and benefit of the next of
kin of Clayton Upchurch, Decedent

By:



R. WAYNE CULBERTSON, BPR 000765

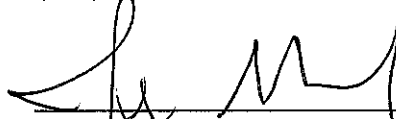
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JOSEPH W. McMURRAY, BPR 28773

Attorney for plaintiff

119 W. Market Street

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COST BOND

We acknowledge ourselves sureties for the payment of all costs of this cause.

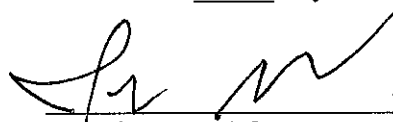


R. WAYNE CULBERTSON

CERTIFICATE OF SERVICE

I, Joseph W. McMurray, hereby certify that I have forwarded a true and exact copy of the foregoing Amended Complaint to the defendant's attorney, Marcie Bradley via email to: mbradley@rswlaw.com.

On this the 12 day of November, 2019.



Joseph W. McMurray